

Appl. No. 10/780,196  
Amendment dated December 22, 2004  
Response to Office Action of September 29, 2004

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### **Remarks**

This application has been carefully reviewed in light of the Office Action of September 29, 2004. By way of this amendment, claim 1 has been amended. Claims 10-26 have been withdrawn from consideration. Applicant requests further review and reconsideration in light of the following remarks.

Applicant affirms the provisional election of claims 1-9, without traverse, for further prosecution.

The Examiner has objected to the drawings for failing to show a heater disposed behind the grinding drum. During a telephone conversation on October 7, 2004, Applicant pointed out that a heater, labeled number 206, is shown in Figure 6 of the original drawings. The Examiner agreed that this item was indeed present. Applicant requests that the objection be withdrawn.

Claims 1-6, 8, and 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,946,307 (Jakob) in view of U.S. Patent 3,843,274 (Gutman et al.) This rejection is respectfully traversed in light of the present amendments.

Independent claim 1 has been rewritten to more clearly point out the distinctions between the present invention and the prior art. In particular, claim 1 now recites that the mixing chamber is open to the pavement surface, that the laterally-extending mixing wheel has an axis of rotation generally parallel to an axis of rotation of the grinding drum, and that

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the mixing wheel is exposed to the pavement surface. Support for these amendments are found throughout the specification and drawings, and no new matter is contained therein.

Neither Gutman et al. nor Jakob disclose or suggest these limitations. In particular, both Gutman et al. and Jakob disclose mixing devices that rotate about a longitudinal axis (i.e the mixer 58 of Jakob and the pugmill 34 of Gutman et al.) In contrast, the present invention uses transversely-mounted mixing wheels which make the recycling assembly compact in length. These grinding wheels require no special feed apparatus or transition in width from the grinding drum, unlike the mixing devices of Gutman et al. and Jakob. Furthermore, both Gutman et al. and Jakob teach separate mixing chambers which are elevated such the chamber and mixing wheels are not exposed to the pavement surface, as presently claimed. These are significant differences, as the present invention substantially simplifies the apparatus required for the recycling process, and provides a true "in-situ" process in which the material being recycled does not have to be transported vertically from the pavement surface to complete the mixing step. Accordingly, it is submitted that Jakob in view of Gutman et al. fails to teach every limitation of amended claim 1 and the rejection should be withdrawn.

Claims 2-9 depend from claim 1 and are thus believed to be allowable for the reasons stated above.

Applicant notes with appreciate the indication that claim 7 would be allowable if


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rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in light of above arguments that claim 1 is allowable as amended, the rewriting of claim 7 is not believed to be necessary.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the objections and rejections is requested. Allowance of claims 1-9 at an early date is solicited.

Respectfully submitted,

  
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